IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

J U D G M E N T

D.B. CIVIL SPECIAL APPEAL (WRIT) NO.891/2007.
In
S.B. CIVIL WRIT PETITION NO.2925/2005.

Maharishi Dayanand Saraswati University, Ajmer
Vs.
Dolat Chand Jain

Date of Order:- August 7, 2007.

QUORUM
HON'BLE THE ACTING CHIEF JUSTICE MR.J.M. PANCHAL
HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr. N.S. Chouhan for the appellant.
Mr. Sunil Samdaria for the respondent.

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BY THE COURT (Per: J.M. Panchal, Actg.CJ.):

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The instant appeal filed under Rule 134 of the High Court of Judicature for Rajasthan Rules, 1952 is directed against the judgment dated March 2, 2007 rendered by the learned Single Judge in S.B. Civil Writ Petition No.2925/2005 by which the appellant has been directed to make the payment of interest @ 9% on the delayed payment of Gratuity and Leave Encashment.

2) The respondent joined the services of the appellant-University on May 5, 1988. He retired from service on June 30, 1999 on attaining the age of superannuation. On retirement, he was entitled to retiral benefits. However, he was not paid retirement benefits. Therefore, he instituted S.B. Civil Writ Petition No.6862/1999 with a prayer to direct the appellant to pay Gratuity, Leave Encashment and other retiral benefits with interest @ 18% p.a. The writ petition filed by the respondent came to be allowed vide judgment dated October 11, 2000 in the following terms:-

> “Writ petition is allowed. The petitioner be given retirement benefits i.e. Provident Fund, Gratuity and Leave Encashment, if it is due within three months from today.”

3) The case of the respondent was that inspite of the direction given by the High Court, he was not paid the amount of Gratuity and Leave Encashment within the period of three months and was paid the said amount after a period of about more than three years. Under the circumstances, the petitioner filed S.B. Civil

Writ Petition No.2925/2005 and prayed to issue an appropriate writ directing the appellant to make the payment of interest @ 18% p.a. on admittedly delayed payment of Gratuity and Leave Encashment.

4) On service of notice, the appellant filed reply.

5) The learned Single Judge heard the learned counsels for the parties and has partly allowed the petition by directing the appellant to make payment of interest @ 9% on the delayed payment of Gratuity and Leave Encashment vide judgment dated March 2, 2007 which has given rise to the instant appeal.

6) This Court has heard learned counsels for the parties and considered the documents forming part of the petition.

7) The contention of the appellant that delayed payment of Gratuity and Leave Encashment was not intentional and, therefore, the appellant should not have been saddled with liability to pay interest on the delayed payment of Gratuity and Leave Encashment, has no substance. From the contents of the order dated October 11, 2000, rendered by the learned Single

Judge of this Court in S.B.C.W.P. No.6862/1999, it is evident that the appellant was directed to make payment of Provident Fund, Gratuity and Leave Encashment within three months from the date of the judgment. The direction issued by this Court in SBCWP No.6862/1999 has attained finality inasmuch as, the said judgment delivered in the same writ petition was never challenged by the appellant before the higher forum. Therefore, it was the duty of the appellant to comply with the direction issued in SBCWP No.6862/1999. Admittedly, the appellant failed to comply with the said direction and made payment of Gratuity as well as Leave Encashment only after a period of three years, three months & 10 days from the date of the judgment delivered in SBCWP No.6862/1999.

8) Under the circumstances, this Court is of the opinion that the learned Single Judge was justified in directing the appellant to make payment of interest @ 9% for a period of three years, three months and 10 days because of delayed payment of Gratuity and Leave Encashment by the appellant to the respondent. In terms of the direction issued by the court in SBCWP

No.6862/1999, the appellant was expected to determine the amount payable to the respondent as Gratuity and Leave Encashment and make payment of the same within three months. However, the determination of the amount payable was made by the appellant only on March 20, 2004 without any justifiable reasons. Therefore, the direction given by the learned Single Judge cannot be regarded as erroneous so as to warrant interference of the court in the instant appeal.

7) The appeal therefore, deserves to be dismissed.

For the foregoing reasons, the appeal fails and is dismissed.

(MOHAMMAD RAFIQ), J. **(J.M. PANCHAL), Actg. CJ.**

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